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August 19, 2021

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Via ECF

Hon. Susan D. Wigenton, U.S.D.J.
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Courtroom MLK 5C
Newark, NJ 07101

Re: *Jones v. Fox Rothschild LLP et al.*
Docket No. 2:20-cv-06312-SDW-LDW

Dear Judge Wigenton:

This firm represents Defendant Fox Rothschild LLP (“Fox”). Kindly accept this letter as Fox’s response to Plaintiff’s letter of this date (ECF No. 67). Plaintiff asks the Court to place this case back on the calendar and to approve Plaintiff’s filing of a proposed amended complaint – nine months after the Court’s deadline for doing so – that includes a new claim and new defendant the Court never authorized. Plaintiff’s flouting of the Court’s rulings should not result in an amendment of her Complaint, but rather its dismissal.

I. It Is Too Late for Plaintiff to File an Amended Complaint.

In Plaintiff’s opposition to Defendants’ motions to dismiss the Complaint (ECF No. 2), she “informally” requested leave to file an amend complaint. In its October 21, 2020 ruling, the Court granted Defendants’ motions to dismiss and granted in part and denied in part Plaintiff’s informal request to file an amended complaint, giving Plaintiff 30 days to file one:

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Defendants' Motions to Dismiss are **GRANTED**. *Plaintiff shall have thirty (30) days* within which to file an amended complaint.

Plaintiff informally requests leave to amend in her opposition papers to both motions. (*See generally* D.E. 49, 50 (citing Rule 15(a) providing that leave to amend should be “freely given when justice so requires”).) Plaintiff's request is ***denied as to Counts Four through Nine which have been dismissed with prejudice***. Leave to amend is ***granted only as to Counts One (as to Fox only), Two and Three***.

(Op., ECF No. 54 at 7 & n.6, some emphasis added; *see also* Order, ECF No. 55 at 1.) Plaintiff thus had 30 days from October 21, 2020 to file an amended complaint, that is until November 20, 2020. Plaintiff has since filed a lot of other things, but never an amended complaint.

On October 28, 2020, Plaintiff filed a motion for reconsideration of the dismissal of her Complaint (ECF No. 56), but not an amended complaint.

On November 20, 2020 – the deadline for Plaintiff to file an amended complaint – Plaintiff filed a Notice of Appeal (ECF No. 59). She did not file an amended complaint.

On December 1, 2020, the Court denied Plaintiff's motion for reconsideration (ECF Nos. 63, 64). Plaintiff did not file an amended complaint.

On April 1, 2021, the Court administratively terminated this case pending the outcome of Plaintiff's appeal. The Order provided that “any party may request that this matter be reopened and restored to the Court's active docket by filing a letter to that effect.” As of April 1, 2021 – 132 days after the deadline for filing an amended complaint expired – Plaintiff had not filed an amended complaint.

On June 30, 2021, the Third Circuit Court of Appeals, inevitably, dismissed Plaintiff's appeal “for lack of appellate jurisdiction,” for the elementary reason that the Court's October 21,

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2020 Order granting Defendants' motions to dismiss did not terminate all claims against all parties.
(ECF No. 66 at 1.)

Plaintiff filed her letter under consideration here on August 19, 2021, 272 days – nine months – after the deadline for her to file an amended complaint and 50 days after the Third Circuit's dismissal of her appeal.

Plaintiff has still not filed an amended complaint. It is hardly stretching a point to say it is too late for her to do so and her request to so should be rejected.

II. Plaintiff's Proposed Amended Complaint Is Unauthorized.

In its October 21, 2020 ruling, the Court dismissed Counts IV through IX of the Complaint. The Court also gave Plaintiff 30 days to file an amended complaint (ECF No. 2), and “only as to Counts One (as to Fox only), Two and Three.” (ECF No. 54 at 7 n.6.; ECF No. 55 at 1.) Count One asserts a claim under Title VII of the Civil Rights Act of 1964, Count Two asserts a claim under the New York State Human Rights Law, and Count Three asserts a claim under the New York City Human Rights Law. The Court did *not* grant leave for Plaintiff to assert additional claims or name additional defendants, as Plaintiff says she is seeking to do in her proposed amended complaint. For this reason, too, leave for Plaintiff to file an amended complaint should be denied.

III. Conclusion.

On October 21, 2020, the Court granted Defendants' motions to dismiss the Complaint and gave Plaintiff 30 days to file an amended complaint so she could assert three claims in a manner that would pass Rule 12(b)(6) muster. On August 19, 2021, 272 days (nine months) after the 30-

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day deadline, Plaintiff filed a letter to the court asking permission to file an amended complaint asserting unauthorized claims and naming a new defendant. Plaintiff's request to file an improperly-amended complaint at this late date should be denied and this matter should be dismissed.

Respectfully submitted

s/ Rosemary S. Gousman

Rosemary S. Gousman
Regional Managing Partner
For FISHER & PHILLIPS LLP

RSG:td

cc: All Counsel of Record (via ECF)